

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NO. CCB-16-0267
RANDY BANKS,)
Defendant.)
_____)

Monday, August 26, 2019
Courtroom 7D
Baltimore, Maryland

BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE

SENTENCING

For the Plaintiff:

Christina Hoffman, Esquire
Assistant United States Attorneys

For the Defendant:

Brian Sardelli, Esquire

Also Present:

Special Agent Timothy Moore, ATF
Nikki Martin, U.S. Probation Officer

Reported by:

Douglas J. Zweizig, RDR, CRR, FCRR
Federal Official Court Reporter
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P R O C E E D I N G S

(2:05 p.m.)

THE COURT: Good afternoon, everyone. You can be seated, please.

Would you like to call the case, Ms. Hoffman.

MS. HOFFMAN: Yes. This is United States versus Randy Banks. I am Christina Hoffman on behalf of the United States. I'm sorry, case number is CCB-16-0267.

With me here at counsel table is Special Agent Tim Moore from the ATF.

I don't have my co-counsel, Ms. Perry, with me today, but it is for a good reason. She gave birth to a healthy baby boy last week.

THE COURT: Oh, congratulations. That's great.

MS. HOFFMAN: Thank you.

THE COURT: Mr. Sardelli.

MR. SARDELLI: Good afternoon, Your Honor. Brian Sardelli on behalf of Randy Banks. My client, who is in custody, is on my right, Your Honor.

THE COURT: Okay. All right. Thank you.

We are here for sentencing for Mr. Banks following the jury's verdict finding him guilty of Count 2, conspiracy to distribute narcotics.

I am aware there are a number of issues that we'll have to talk about.

1 I have the Government's sentencing memorandum. I have
2 the presentence report, of course. I have the updated
3 sentencing memorandum from Mr. Sardelli.

4 And just recently I was provided with some character
5 letters which I've read as well.

6 So I think I have all of that material.

7 And I guess we might as well go ahead with the various
8 guidelines issues.

9 The presentence report calculated the quantity of
10 drugs involved at an offense level of 16. Obviously, the
11 Government disagrees with that.

12 The presentence report also assessed a four-level
13 upward adjustment for Mr. Banks being an organizer or leader of
14 a conspiracy that was extensive or involved five or more
15 participants.

16 And, anyway, there are a lot of disagreements about
17 the guidelines.

18 Other than the guidelines, is there anything specific
19 about the presentence report that the Government thinks should
20 be modified or corrected?

21 **MS. HOFFMAN:** No. Just the guidelines issues.

22 **THE COURT:** Okay. And, Mr. Sardelli, for the record,
23 I know you have obviously reviewed the presentence report.

24 Has Mr. Banks had the chance to review it with you?

25 **MR. SARDELLI:** We have, Your Honor.

1 And then the original objections were filed July 15th;
2 that's ECF-1247.

3 So the Court's correct, most of our issues are with
4 the scoring of the guidelines, Your Honor.

5 **THE COURT:** Okay. All right. Well, let me go ahead
6 and start in on that.

7 I will start with the Government. And if you'd like
8 to tell me where you are on each guidelines issue, I'm happy to
9 hear from you.

10 **MS. HOFFMAN:** Sure. Thank you.

11 I'll start just with a little bit of background about
12 the law. Obviously, Your Honor read the sentencing memo, but I
13 do think it's clear from Supreme Court and Fourth Circuit case
14 law that the standard of proof at sentencing, unlike the
15 standard of proof when the jury is making its determination, is
16 a preponderance of the evidence, and that the Court may
17 consider both uncharged but also acquitted conduct. So conduct
18 that the jurors did not unanimously agree upon beyond a
19 reasonable doubt.

20 And, in fact, we did cite to a Fourth Circuit case
21 that actually reversed and remanded where the District Court
22 said, you know, I'm not going to invade the province of the
23 jury and declined to consider acquitted conduct. And the
24 Fourth Circuit said no, the Court must consider acquitted
25 conduct as well, and obviously we think that's important.

1 We think the Supreme Court's decision in Witte is
2 important too. It's also cited in our memo. That's
3 515 U.S. 389, and that's the case in which the Court approved
4 the District Court's consideration of other drug transactions
5 that the jury had not determined in making its verdict, and
6 that resulted in a guidelines range that was actually over 200
7 months higher than what it would have been otherwise.

8 And so I'll start -- with that background, I will
9 start with the drug-trafficking quantity, which I think is the
10 biggest issue in dispute.

11 We do think that a clear preponderance of the evidence
12 presented at trial established that Randy Banks was
13 responsible, he was part of a conspiracy that distributed
14 280 grams or more of crack cocaine, that the base offense level
15 should be set at a Level 30.

16 And we've included a lot of detail about the witness
17 testimony and exhibits in the sentencing memo, but I'll kind of
18 give an overview of it again here.

19 So five witnesses testified that Randy Banks -- who
20 also went by Dirt or Sand -- was a leader of
21 Murdaland Mafia Piru, or MMP, in the Gwynn Oak and
22 Liberty Heights area and that he supplied crack cocaine to the
23 members of the gang who operated there.

24 So members and associates of the gang, rivals of the
25 gang, they all agreed that Dirt oversaw that drug shop at

1 Liberty Heights and Gwynn Oak.

2 And the witnesses testified, we think, remarkably
3 consistently.

4 I referred to them by initials in the sentencing memo,
5 but I'll refer to them by their names here. They did testify
6 in open court.

7 William Banks, Jay Greer, and Devin Ferguson all said
8 that the defendant had a house near Gwynn Oak and
9 Liberty Heights where his operation would sell crack cocaine
10 during the nighttime hours. And they would sell -- they said
11 they would sell along the side and in back of the house.

12 And both Ferguson and Malcolm Lashley mentioned a
13 trap house near Gwynn Oak and Rogers.

14 And their testimony was corroborated by
15 Officer Jason DiPaola of the Baltimore Police Department who
16 arrested the defendant on May 12th of 2016, after watching him
17 direct drug customers at a house that was known for
18 drug-trafficking activity over the nighttime hours at
19 5509 Gwynn Oak Avenue, and that's right near the intersection
20 of Rogers Avenue, so consistent with both what Malcolm Lashley
21 and Devin Ferguson testified to.

22 On that occasion, Baltimore police officers stopped
23 three drug customers who were leaving the location, and all had
24 small baggies of crack cocaine on their persons.

25 The total volume of crack cocaine seized that day was

1 very small. It was less than a gram.

2 But it is, nevertheless, highly corroborative of what
3 the witnesses all testified to.

4 Devin Ferguson testified that the individual
5 transactions on a day-to-day basis were typically small. They
6 were often just a \$10 bag of crack cocaine per transaction.

7 However, he testified that these transactions went on
8 at all hours of the day and night. Sometimes as frequently as
9 every few minutes.

10 William Banks and Jay Greer both also mentioned
11 another trap house in the area where the defendant would cook
12 up and sell drugs.

13 Banks said he thought it was near Bowers and Norwood.

14 Greer wasn't sure exactly where it was but knew it was
15 near Liberty Heights and Gwynn Oak.

16 And both of them identified pictures from inside of
17 that trap house.

18 I did also want to note, the defendant's prior arrests
19 for distribution of crack cocaine in the Gwynn Oak and
20 Liberty Heights area I think are relevant here.

21 We didn't seek to introduce the facts pertaining to
22 those prior arrests as 404(b) evidence at trial, but I think it
23 is relevant that on three prior occasions, the defendant was
24 arrested in that area and police officers recovered
25 crack cocaine, drug paraphernalia, and in one instance a

1 firearm and boxes of ammunition from him, and those arrests are
2 outlined in the presentence report.

3 **THE COURT:** You're relying on the presentence report
4 for that information; right? That was not introduced at trial?

5 **MS. HOFFMAN:** It was not. We didn't -- it would have
6 had to be 404(b) because it preceded the date range of the
7 conspiracy, and we didn't seek to introduce it under 404(b).
8 In hindsight, maybe we should have tried to do that.

9 But I, nevertheless, think it is -- it's relevant
10 information for the Court to consider at sentencing and
11 certainly also corroborates what the witnesses said, that on
12 three prior occasions, in the decade before the charged
13 conspiracy, the defendant was arrested for offenses involving
14 distribution of crack cocaine in that same area.

15 So that's the background kind of overview of what the
16 witnesses testified to. That's before we even get to the
17 specific transactions that the witnesses testified to.

18 Of course, for purposes of a conspiracy, it's not
19 necessary that we prove that the defendant himself personally
20 distributed 280 grams or more of crack cocaine.

21 What is important is the quantity that was reasonably
22 foreseeable to him that members of the conspiracy would
23 distribute as a whole.

24 But here we actually have witnesses who testified to
25 specific transactions that the defendant himself engaged in.

1 So we have Malcolm Lashley, who testified that in 2010
2 or 2011, he drove his brother, Melvin Lashley, who was a member
3 of MMP, Murdaland Mafia Piru, to a house near Gwynn Oak and
4 Rogers, where his brother met with the defendant to purchase
5 crack cocaine.

6 And he said that he saw his brother go up to the
7 house, meet with the defendant on the porch of the house. They
8 went inside the house together. His brother came back out, got
9 in the car, and he saw the crack cocaine that his brother had
10 just purchased, and he said it was roughly a quarter of an
11 ounce, which is roughly 7 grams.

12 Jay Greer also gave very detailed testimony about an
13 incident in the summer of 2015, when he went with Dante Bailey
14 and the defendant to the defendant's trap house in the
15 Gwynn Oak and Liberty Heights area. And the defendant cooked
16 500 grams of powder cocaine into crack cocaine on that
17 occasion, so that's 500 grams on a single occasion, which is
18 itself well over the 280-gram threshold.

19 And he gave a lot of specific details about what that
20 process entailed. It entailed a stove, baking soda.

21 Now, the witnesses who testified at trial, of course
22 they did have baggage. Most of them were testifying pursuant
23 to cooperation agreements. They were facing sentences and they
24 were hoping for sentencing leniency, and that's certainly
25 something that the Court should consider.

1 But I think that they all testified extremely credibly
2 and consistently. And their testimony backed up -- they backed
3 up one another, but it was also corroborated by law enforcement
4 surveillance, of course, but also by photographs and
5 documentary evidence.

6 And I did want to remind the Court about a couple of
7 exhibits that came in at trial.

8 This was IC-52. And this was a photograph that
9 William Banks identified as the inside of one of the
10 defendant's trap houses. And you can see the defendant here on
11 the left with Dante Bailey in the middle making -- and they're
12 both making gang signs.

13 On the table in front of them, you can see there's a
14 small digital scale with what looks like white powdery residue
15 on top of it. So completely consistent with the testimony of
16 Jay Greer and William Banks about what went on in that
17 trap house.

18 And this is a second photograph of the same
19 trap house. You can see the digital scale again. And in this
20 one, Dante Bailey is, of course, making that M sign for
21 Murdaland Mafia Piru.

22 We also introduced at trial Government's Exhibit
23 CELL-15A. This was photographs and data extracted from a
24 cell phone that was recovered from Dominick Wedlock on
25 February 12th of 2015. And Dominick Wedlock was identified by

1 numerous witnesses as another member of Murdaland Mafia Piru.
2 As Your Honor knows, he pleaded guilty prior to trial in this
3 case.

4 The phone contained a number of gang-related
5 photographs, and one of them -- and I'll show a better copy of
6 this photograph here, but it was this photograph from -- it
7 says it has a created date of November 2014.

8 And on the last page here is a kind of blow-up version
9 of that same photograph. And it's a little bit easier to see
10 if I move it up a little bit.

11 But that's the defendant on the right who's standing
12 next to Dominick Wedlock. The defendant is making an MMP gang
13 sign. It's hard to see in this picture, but this was a sign
14 that William Banks identified as an MMP gang sign.

15 And on the table in front of them, you can see a
16 sifter, newspaper, and what looks like baking soda in this box
17 over here (indicating).

18 So that is highly corroborative of what Jay Greer
19 testified to about the time when he went with Dante Bailey to
20 Randy Banks' trap house and watched the defendant cook
21 500 grams of powder cocaine into crack cocaine.

22 There's also a search warrant that was executed on
23 Dante Bailey's iCloud account in June 2015 and an O sheet, what
24 appears to be an O sheet, recovered from that account.

25 It's hard to tell what exactly these numbers refer to,

1 but we do think that this is a reference to either quantities
2 or shorthand for money owed for drug transactions. And we have
3 10 Dirt listed here under quantities for Bo, Creams, and Fish,
4 who the Court heard evidence were also members of the
5 conspiracy.

6 So those are just a few of the pieces of evidence that
7 corroborated the witness testimony on the drug quantity
8 specifically.

9 I'm happy to move on to the other guidelines issues
10 that are in dispute or I can give the defense a chance to
11 respond on drug quantity. Whatever the Court prefers.

12 **THE COURT:** Why don't you move on to the other
13 guidelines issues. I'll take them altogether.

14 **MS. HOFFMAN:** Okay. So the second issue in dispute is
15 the four-level bump for leadership role. The presentence
16 report does conclude that that four-level increase is
17 warranted, and we agree.

18 Again, five witnesses testified that the defendant was
19 a leader of Murdaland Mafia Piru; that specifically he was a
20 boss of the Gwynn Oak and Liberty Heights area, he and
21 Ayinde Deleon, who also went by Murda or Yin, were the two
22 bosses in that area.

23 And their testimony was corroborated by all kinds of
24 evidence.

25 I guess -- actually, I'm going to start by giving an

1 overview of the testimony regarding the number of people who
2 the defendant oversaw.

3 The guideline requires, for the leadership role bump,
4 that the defendant be an organizer or leader of criminal
5 activity involving five or more participants.

6 And these five witnesses, between them, identified
7 over five people who worked in Dirt's drug shop and were
8 overseen by them.

9 One of them was Devon Dent, also known as Tech, who
10 pleaded guilty prior to trial in this case.

11 Another was Delante Lee, who also pleaded guilty prior
12 to trial in this case.

13 The third was Dante Harris, also known as Eastside,
14 who was killed in the summer of 2016.

15 Another was Desean McCorkle, a/k/a Sheisty.

16 Another was Darius Stepney, also known as Conehead.

17 Another was Antonio Walker-Bey, also known as Tone.

18 And another was Maurice Braham, also known as Mookie,
19 who was also killed prior to trial in this case.

20 So the five witnesses identified more than five people
21 who sold crack cocaine that they had supplied to them by the
22 defendant and were overseen at that drug shop.

23 Their testimony was corroborated by gang paperwork.
24 We introduced at trial gang paperwork that was recovered from a
25 car operated by Devon Dent, also known as Tech, in November of

1 2012. And it's a really lengthy piece of paperwork outlining
2 how Murdaland Mafia got started, what it's about, different
3 rules of conduct, including that retaliation is a must and
4 people who cooperate with authorities are punishable -- that's
5 an offense punishable by death.

6 And on one page of this gang paperwork, it lays out
7 some of the original leaders of the gang. And it says here
8 [reading]: The mob flourished in West Baltimore within the
9 Gwynn Oak area under the tutelage of Dirt, who was a reflection
10 of Murda.

11 So that is, again, consistent with what the witnesses
12 testified to about Dirt and Murda being the bosses of MMP in
13 that area.

14 We also introduced gang paperwork that was recovered
15 from Dante Bailey's residence at 3901 Princely Way on July 3rd
16 of 2015. This was a handwritten document in Dante Bailey's
17 handwriting.

18 And on the second page of this document, there's a
19 list of certain positions in the gang and who is filling them
20 at that particular time.

21 And it says boss of finance, BOF, Sand, and it was --
22 the witnesses testified at trial that Sand was an alias of the
23 defendant (indicating).

24 Again, on the next page, boss of finance, roundtable.
25 There are certain positions listed here. And it says, "Sand

1 must fill these spots."

2 Again, consistent with what the witnesses testified
3 to.

4 There were pieces of evidence introduced from
5 Dante Bailey's iCloud account in the form of slideshows. One
6 of them identified the defendant Randy Banks here (indicating)
7 as BOF, which we think stands for boss of finance.

8 Again, it also identifies Adrian Spence,
9 a/k/a Spittle, as a boss (indicating).

10 Dante Bailey in the center, it says GF, which stands
11 for godfather (indicating).

12 And this is all consistent, it says -- it's "LaEMMs
13 for life," which stands for Murdaland Mafia. This is all
14 consistent with what the witnesses testified to at trial.

15 At the very beginning of the trial, I think it was
16 actually the defense that introduced a rap video called
17 "Murdaland Mafia" that the defendant was featured in. I had
18 hoped to play a short clip of it here, but we couldn't get the
19 HDMI working.

20 But I will just remind the Court, this was a video in
21 which the defendant was prominently featured.

22 At the very beginning -- it was published to YouTube
23 in November of 2013. At the very beginning, you can see it
24 actually says "Murdaland Mafia." This is the defendant here
25 (indicating). He's standing next to Dante Bailey and

1 Dontray Johnson, a/k/a Bino, who pled guilty prior to trial in
2 this case.

3 And I have a few screenshots from this video.

4 There is a video of the intersection at Gwynn Oak and
5 Liberty Heights (indicating).

6 There are a number of clips of the defendant standing
7 with other members of the gang making gang signs.

8 So here's one standing with Dontray Johnson over here
9 (indicating); William Banks in the center (indicating);
10 Dante Bailey is behind (indicating); and I believe that's
11 Sydni Frazier over here (indicating).

12 And then, very significantly -- and this ties into the
13 enhancement that we think should apply for the firearm as
14 well -- but at the end of this video, there are two members of
15 the gang who actually flash actual firearms in the video, and
16 the defendant is standing right there amongst them making gang
17 signs with them. And so we think that's highly relevant.

18 Even if the Court doesn't credit the testimony that
19 I'll get to in a minute, I think this is concrete evidence that
20 the defendant was part of a conspiracy that involved the use of
21 firearms and knew that firearms were being used.

22 This is -- again, it would be better if I could play
23 the actual video, but this is a screenshot that shows
24 Dontray Johnson starting to pull a handgun out of his pocket
25 here (indicating).

1 Dontray Johnson, obviously a convicted felon at the
2 time, not lawfully in possession of that firearm.

3 And then the second screenshot here, again,
4 Dontray Johnson is starting to pull his firearm out and this
5 other individual, who there was, I think, some testimony about
6 him at trial, that's Donte Blackston, also known as Chi-Chi, he
7 also has an actual firearm here too.

8 And then right here is a black Mercedes-Benz, which is
9 significant, because this is the car that several witnesses
10 testified the defendant drove, that he drove a black
11 Mercedes-Benz.

12 And he is in this group of people when these firearms
13 are flashed.

14 Here's one final screenshot from the video of the
15 defendant making the M sign, clearly for "Murdaland Mafia"
16 (indicating), standing next to several other members and
17 leaders of the gang also making M signs.

18 We also introduced a whole bunch of photographs from
19 various sources -- from cell phones, from social media, from
20 Dante Bailey's iCloud account. I won't go through all of them
21 now. Your Honor sat through six weeks of trial.

22 But a lot of photographs where the defendant is
23 standing with other leaders of the gang making MMP gang signs,
24 which we think is very corroborative of what the witnesses
25 testified to.

1 This one actually is significant also to the firearms
2 issue because -- it may be not as clear-cut as the last series
3 of photos, but here Dante Bailey is wearing this red shirt and
4 these kind of multi-colored jeans (indicating).

5 And the next photo in the iCloud account is -- it
6 appears to be Dante Bailey wearing that same clothing with a
7 gun with an extended clip (indicating). And that looks like a
8 bag of marijuana (indicating).

9 It doesn't show the defendant in the picture, but I
10 think it's still relevant to the issue of whether firearms --
11 whether it was perceivable to the defendant that firearms would
12 be used in furtherance of this conspiracy.

13 And I'll just put up here, just to make sure the
14 record is complete, a few additional photographs from the
15 defendant's iCloud. This is MMP with the defendant and
16 Dante Bailey.

17 The defendant and Dante Bailey, "Shit I kill and die
18 about" (indicating).

19 Additional photographs of the defendant making gang
20 signs with other members of the gang.

21 There were quite a lot that were introduced at trial.

22 This one of the defendant making an MMP gang sign with
23 a whole number of people.

24 And then here's a photograph of the defendant in a --
25 what appears to be a black Mercedes-Benz that looks very

1 similar to the shot of the black Mercedes-Benz that we saw just
2 a moment ago from the video next to the people flashing
3 firearms.

4 So it all ties up and I think makes a compelling case
5 for all three of those enhancements.

6 And then, finally, on the firearms enhancement, there
7 was a witness, Devin Ferguson, who testified at trial about a
8 specific incident in the spring of 2016. This was shortly
9 after Maurice Braham, a/k/a Mookie, was killed, who was a
10 member of MMP and also a close associate of the defendant's.

11 And Devin Ferguson testified that the defendant
12 confronted him. He was at a candlelight vigil for someone from
13 his rival gang who had been killed. The defendant confronted
14 him with a firearm, demanded to know who had killed Mookie, and
15 said something along the lines of "You'll all be dead by the
16 end of summer."

17 And we also presented some evidence at trial about one
18 murder, the murder of Dante Harris, a/k/a Eastside, which
19 happened that summer and we think was part of the fallout from
20 Mookie's murder.

21 And I did want to show -- this was introduced at
22 trial. It was evidence from Desean McCorkle, a/k/a Sheisty's
23 Instagram account, who was one of the people who worked under
24 the defendant at Gwynn Oak and Liberty Heights.

25 This is at Mookie's funeral. You can see the

1 defendant here in the center making an MMP gang sign standing
2 with McCorkle, Ayinde Deleon, and others (indicating).

3 And this is the funeral where they draped the
4 MMP banner over Mookie's casket. It says "MMP" down here
5 (indicating) and then "MIP," which I think means mobbin' peace.

6 But in early July of 2016, Dante Harris,
7 a/k/a Eastside, who was identified as a member of
8 Murdaland Mafia Piru, was murdered.

9 And William Banks testified at trial that he heard
10 from Ayinde Deleon, Murda, that Eastside had been killed
11 because he was associating with someone named Ro-Ro. That's
12 the street name for someone who investigators have identified
13 as Rashard Pierce, who's another member of that rival gang, of
14 Devin Ferguson's rival gang.

15 And so William Banks testified that Eastside was
16 allegedly affiliating with Ro-Ro, the person who was suspected
17 of having killed Mookie, and that it was actually members of
18 MMP from that Gwynn Oak and Liberty Heights area that killed
19 Eastside basically as retaliation for affiliating with the
20 enemy and for not giving up his whereabouts when they asked him
21 to do that.

22 There was a wire call that was introduced at trial
23 that was consistent with that account in which Dante Bailey and
24 Jamal Lockley discussed -- Dante Bailey asked [reading]:
25 What's going with Sand and them? -- Sand being the defendant.

1 And Jamal Lockley said, [reading]: Well, you heard
2 Eastside got killed. I heard he was playing the 50/50 -- which
3 is sort of street terminology meaning that he was playing both
4 sides of the fence.

5 And then Dante Bailey basically interjects and says
6 [reading]: Yeah, yeah, I heard about that. I already knew
7 that was supposed to happen when fat man came home.

8 So consistent, I think, with what William Banks
9 testified to.

10 And then this was not introduced at trial, but we did
11 reference it. We discovered it shortly after trial and turned
12 it over to Mr. Sardelli, the audio of the jail call. And it's
13 a jail call from another individual named Dante Yates, who's
14 not someone who came up at trial, but they talk about the
15 Eastside murder in this jail call.

16 And I would play a clip of it, but I can't get the
17 HDMI to work. But this is just a rough transcript which was
18 also summarized in the sentencing memo.

19 Yates says [reading]: They killed Eastside -- this is
20 shortly after Eastside was killed -- Yates says [reading]:
21 They killed Eastside.

22 He again says [reading]: I heard they killed Eastside
23 the other day.

24 And then he says [reading]: "N" words ain't playin'.
25 Them "N" words gonna get an indictment.

1 It says [reading]: Everybody's gonna tell. Somebody
2 gonna tell on, somebody going to tell. Mark my word. And "N"
3 word going to get an indictment. They're going to go to
4 prison, I swear.

5 And then he says [reading]: And Yin and Dirt, they
6 going down as the head ringleaders. Them "N" words gonna tell
7 they gave the orders; know what I mean?

8 And then again down here he says [reading]: "N" words
9 like that can't last. Can't keep killin' everybody for no
10 reason just because you feel as though they ain't right. They
11 killed Eastside because he was hangin' with Ro-Ro.

12 So, again, consistent with the testimony that came in
13 at trial and I think additional evidence that goes to that
14 firearms enhancement and corroborates Devin Ferguson and
15 William Banks.

16 And unless the Court has questions, that, I think,
17 covers all three proposed enhancements.

18 **THE COURT:** Okay. Thank you. I appreciate that.

19 Mr. Sardelli.

20 **MR. SARDELLI:** Thank you.

21 I guess to start working backwards, Your Honor, this
22 additional phone call that the Government gave to us after
23 trial, I think we put in our additional objections in the
24 sentencing memorandum that we're objecting to any new evidence,
25 Your Honor.

1 I think in the sentencing memorandum, they also
2 referenced that call talking about a fat man or a fatso.

3 Our position is that that's Dante Bailey, Your Honor.

4 In fact, you know, during the trial, I chastised my
5 client and other people for talking with each other during the
6 trial. My client specifically referred to him as fat man or
7 fatso.

8 So I -- I'm not clear from that call at all whether or
9 not that's my client, Dante Bailey, or whoever else is going
10 on.

11 I think we got a lot of what I call street gossip and
12 street hearsay on wiretaps and various other evidence in this
13 case, Your Honor.

14 So we would object to the late disclosure of that
15 call, Your Honor. We would object about what that call
16 actually means, Your Honor.

17 That call, I think, was from way back before the trial
18 ever started. So we are still not clear why that wasn't
19 disclosed during trial, before trial at some point, Your Honor.
20 The Government did give us a copy after trial, that's correct,
21 Your Honor.

22 But we dispute that call. And if that call has any
23 links at all to this case, which they do, it appears to the
24 defense that that is -- fat man or fatso would be Dante Bailey
25 they're talking about, not my client, Your Honor.

1 So going -- with that said, Your Honor, going back one
2 by one through each of the enhancements.

3 While we respectfully disagree with the probation
4 officer, their recommendations of 41 to 51 months, which is a
5 16-plus for leader/organizer, while we respectfully disagree
6 with that, that's within the realm of reason, Your Honor.

7 The idea of 20 years or 27 to 33 years but for the
8 statutory cap is highly unreasonable, Your Honor.

9 Specifically, the idea that the Government wants to
10 hold -- the Court to hold the defendant liable for actually
11 above the 280 grams, our position is that the Court cannot do
12 that, and here's why, Your Honor.

13 I reviewed the Government's sentencing memo which they
14 filed on Tuesday, Your Honor. I think they've got some very
15 good points, but those cases are distinguishable.

16 Specifically, the 280 grams, Your Honor, it's -- we --
17 when we were back in chambers and during court -- the verdict
18 sheet is what I'm talking about now, Your Honor -- the verdict
19 sheet, we had specifically requested that it just be a line,
20 that the Court -- or the jury say if you're guilty of
21 crack cocaine, fill in the amount or whatever it was.

22 The Court created basically a structure to the amounts
23 in this case, and so they found my client not guilty of Count 1
24 but guilty of the drug count.

25 **THE COURT:** Right.

1 **MR. SARDELLI:** And they said what was reasonably
2 foreseeable was less than 280 grams.

3 And the cases the Court cites -- not the Court, but
4 the Government cites in their sentencing memorandum aren't on
5 point with that. I did not see any case or any authority that
6 would allow the amounts of the drug in this case to go in
7 excess of what the jury actually found.

8 If the jury had found in excess of 5 kilograms or
9 more, I think that would be a different case, Your Honor.

10 But in this case they specifically found less than
11 280 grams.

12 I think the Government's sentencing memo was on point
13 with some of the other things about -- there's two different
14 standards here. There's beyond a reasonable doubt and
15 there's --

16 **THE COURT:** Well, let me ask, by preponderance of the
17 evidence, there are a lot of levels between 0 and 30.
18 Offense Level 28, for example --

19 **MR. SARDELLI:** Yes, Your Honor.

20 **THE COURT:** -- would fall below the 280 grams.
21 Obviously, it's significantly more than you're requesting.

22 **MR. SARDELLI:** Yes, ma'am.

23 **THE COURT:** But your legal objection would not apply
24 if I went no higher than an offense level 28?

25 **MR. SARDELLI:** Exactly, Your Honor. The probation

1 officer, I think -- for my interpretation of the -- we're -- we
2 object to -- there's basically three drug incidents that
3 they're scoring or they want -- the Government wants the Court
4 to score to get to where they want to go. The 500 grams for
5 Champagne about cutting up this -- that's number 1.

6 Number two is 2010-2011, Lashley, who claimed that 8,
7 9 years ago, my client was involved in I think it was 7 grams
8 of crack cocaine.

9 And then obviously the Officer DiPaola thing, which is
10 .77 grams or less than 1 gram.

11 What I believe Probation did was they said exactly
12 that, which is, all right, we're going to hit him with
13 .77 grams for DiPaola; with 7 grams for Lashley; but because
14 the 500 grams is above what the jury actually found, they
15 didn't hit him with that. I can't speak for Probation, but
16 that's what seems like it makes sense to me, Your Honor.

17 Now, underlying that -- and I'll get more into that --
18 we contest whether or not the preponderance-of-the-evidence
19 standard has been met with anything beyond Officer DiPaola, and
20 I can explain that a little bit later.

21 But the Court is correct, I think the Court has wide
22 discretion with the enhancements and other things as well,
23 Your Honor.

24 But where I think the jury constricts or restricts
25 what the Court should do is based on that, because the Court

1 literally would be finding above 280 grams.

2 And it's not conjecture, guessing. Their verdict
3 sheet specifically says less than 280 grams. And there aren't
4 any cases that I've found on point that the Supreme Court or
5 the Fourth Circuit said despite that, you still can go beyond
6 the 280 grams. I did not find that.

7 An upward adjustment, something -- other reason
8 possibly, Your Honor.

9 But specifically, I think that jury verdict sheet
10 really ties the hands and the plain language of what the jury
11 found ties the hands above that, and my guess is that's why
12 Probation did not assess him or hit him for the 500 grams for
13 a/k/a Champagne.

14 Going through those one by one, Your Honor, the jury
15 obviously was not a runaway jury in this case, Your Honor.
16 There's a reason why all the other defendants that went to
17 trial pretty much were found guilty of everything and were
18 found reasonably foreseeable for almost all of it. Unless -- a
19 generality is not true for a point-by-point, but generally, the
20 other defendants who went to trial were convicted of everything
21 else and found reasonably foreseeable for everything else, and
22 there's a good reason for that, because there was so much
23 street gossip, street conjecture, Your Honor, I call it.

24 When you look at the hard facts and the evidence, it
25 pretty much comes down to the following:

1 Champagne, the 500-gram incident.

2 Officer DiPaola, the .77-gram incident.

3 Lashley, from back in 2010-2011, according to him,
4 7 grams.

5 And then this alleged threat involving Mookie -- who,
6 by the way, Your Honor, is the defendant's cousin.

7 And I saw no -- even if you believe the testimony of
8 the one cooperator -- and the Government brought up all these
9 sources, Your Honor. Our main contention with all of these
10 sources is that they're single-source. Lashley is the only one
11 that testified about the 7 grams in 2010-2011.

12 Champagne is the only one that testified about the
13 500 grams, whatever the date of that was, Your Honor, between
14 the dates of the conspiracy.

15 DiPaola, we -- again, if you look at the Government's
16 objections or the defense objections and sentencing memorandum,
17 we believe, based on the note the jury sent to the judge and
18 also some of the other jury notes and instructions, they found
19 him guilty specifically of that. Of all the evidence in this
20 case, although we disagree with it, Officer DiPaola's was
21 probably the most solid, on-point evidence.

22 And based on the jury's note to the Court, we believe
23 that's what they found him guilty of, the .77 grams, which is
24 why I wish -- and I understand the Court didn't agree with
25 us -- I wish they would have had a specific amount defined so

1 we wouldn't have to guess in this case, Your Honor. So that
2 was solid evidence.

3 But the other sources, Lashley, Champagne, this
4 alleged threat at Mookie's memorial, funeral, whatever it was,
5 are all single-source, Your Honor.

6 **THE COURT:** Let me disagree with you slightly on that
7 point. I mean, I understand what you're saying, each
8 specific --

9 **MR. SARDELLI:** I'm sorry, I'm just going to grab some
10 water, Your Honor.

11 **THE COURT:** Sure.

12 For that specific incident, there was one witness.
13 But I don't think it's reasonable to ignore the other witnesses
14 who testified about Mr. Banks' involvement in drug dealing
15 generally.

16 There were a number of witnesses that testified to his
17 involvement generally in drug dealing in the Liberty Heights
18 and Gwynn Oak area.

19 **MR. SARDELLI:** But the defense problem with that,
20 Your Honor, is a lack of specificity. They are very --
21 generalities. But when you come down -- you cut down to the
22 incident, you're talking about four incidents: Champagne's
23 500 grams, the DiPaola incident, the Lashley incident, and the
24 incident regarding the threats surrounding Mookie's memorial,
25 Your Honor. Four incidents that we're talking about that are

1 actual evidence against my client. The rest of it is a lot of
2 rumor and conjecture, Your Honor. So we would slightly
3 disagree with that.

4 **THE COURT:** Okay.

5 **MR. SARDELLI:** Only because the Court still has to
6 find -- I think the Court understands my objection to above the
7 280 grams.

8 **THE COURT:** I do understand that.

9 **MR. SARDELLI:** But even below it, Your Honor, you
10 still have to find by the preponderance of the evidence --

11 **THE COURT:** Yes. Right.

12 **MR. SARDELLI:** -- that these things occurred. And
13 we're just presenting these things that it's a sole source.
14 All right.

15 I know they've got -- the Government argues that you
16 can take them all together and perhaps they all mesh, but each
17 of those ones is a sole source.

18 It's not like -- for example, the memorial,
19 Your Honor, there were allegedly 30, 40 people who were present
20 when all this happened, yet the Government only produced one
21 witness to talk about this.

22 If there were 30 or 40 people there, why weren't there
23 additional witnesses to corroborate what this one witness said,
24 Your Honor?

25 So our position is that the Court needs to be very

1 suspicious of single-source evidence of witnesses, especially
2 if those witnesses have an obvious motive to reduce their
3 sentence or are cooperating defendants, I think that puts even
4 more -- makes their evidence even more suspect based on the
5 fact that they had a motivation as cooperating defendants in
6 this case, Your Honor.

7 Also, going back to the gun part of this, Your Honor,
8 I think they want a plus two for the gun and a plus two for the
9 threat, if I'm understanding their position correctly,
10 Your Honor.

11 **THE COURT:** Right.

12 **MR. SARDELLI:** It was -- I don't think that the
13 Government challenges this, Mookie is the defendant's cousin.
14 And for the plus two to apply, Your Honor, there would have to
15 be -- if this happened -- and we contest it, Your Honor -- but
16 if it happened, they have to prove that this isn't some type of
17 family beef or family issue based on the family relation that's
18 in furtherance of gang activity or drug-trafficking activity.

19 I didn't see any evidence during the trial or that the
20 Government talked about today that would differentiate what was
21 based on family ties and what was based on gang and family --
22 excuse me, gang and drug activity, Your Honor.

23 If this was done based solely on a family tie and a
24 family beef or anger about a family member being killed,
25 Your Honor, that would not get the plus two for the gun and it

1 wouldn't get the plus two for the threat, Your Honor.

2 Also, when you're talking about the leader/organizer
3 part of this, Your Honor, again, the other defense attorneys
4 did a very good job. I was specifically impressed with
5 Teresa Whalen and Paul for Mr. Bailey and all the other defense
6 counsels. They all did a very good job.

7 And what makes this case different, though, is that
8 the evidence against Randy Banks clearly was deficient in the
9 jury's mind.

10 And why I think the Court -- I don't want to limit the
11 Court's ability to consider things here besides the 280 grams
12 or above.

13 But I think the Court can consider the fact that the
14 note sent out right before the verdict said they were evenly
15 split.

16 I know the Court commented that it had instructed the
17 jury not to tell the Court that.

18 But I would ask the Court to consider the fact that
19 this wasn't just one holdout, two holdouts. They were,
20 quote/unquote, evenly split.

21 Now, that note came before or after the note about
22 wanting additional evidence about the DiPaola incident.

23 Now, the DiPaola incident, I think, again, is the
24 strongest evidence the Government has in this case.

25 Even if we disagree and dispute that, Your Honor, that

1 is the strongest evidence that they have. That's why we
2 believe the strength of that evidence, the notes sent out --
3 the two notes right before or around the time of the verdict
4 support the idea that the jury convicted him solely of that one
5 incident.

6 And we also believe, Your Honor, even by the
7 preponderance-of-the-evidence standard, the other incidents are
8 not supported because they're one source and not corroborated,
9 Your Honor.

10 **THE COURT:** Okay.

11 **MR. SARDELLI:** All right. Thank you.

12 **THE COURT:** All right. Thank you.

13 I'll go back to the Government, and then, of course,
14 back to Mr. Sardelli, you had also, I think, advanced an
15 argument about criminal history. I didn't know if you were
16 pressing that.

17 **MS. HOFFMAN:** Yes. Yes.

18 We are still moving -- I'm sorry, let me just -- that
19 was in a different place here.

20 We are moving for an upward departure under -- it's
21 Guideline 4A1.3(a)(1).

22 The PSR has the defendant in a Criminal History
23 Category III, and we believe that he's more appropriately
24 considered a Criminal History Category IV.

25 And the specific language of the guidelines says that

1 there can be an upward departure under (a) --
2 Section (a)(2)(8), if the defendant has more than one prior
3 sentence of substantially more than one year imposed as a
4 result of independent crimes committed on different occasions
5 that did not score points.

6 And in this case that's exactly what we have. We have
7 two felony drug convictions involving very similar conduct to
8 the offense at issue in this case that didn't score points
9 because of their age.

10 And I think Your Honor is probably also aware there
11 have been a number of defendants, 20 or so defendants, who pled
12 guilty prior to trial and had -- they qualified as career
13 offenders because of, in some cases, just two low-level recent
14 drug-trafficking offenses.

15 Here I think what we have is -- what the PSR indicates
16 is that this is a lifetime of criminal activity over many
17 decades, and it's -- we think it's important that these
18 criminal convictions are all for similar conduct. They all
19 involve drug trafficking, specifically crack cocaine in the
20 same area.

21 One of them involves a loaded firearm and boxes of
22 ammunition.

23 And we think that -- we're not asking for an upward
24 departure to put the defendant in Criminal History Category V
25 or VI, but we do think an upward departure to put him in just

1 one level higher, Level IV, is appropriate in this case because
2 those convictions should be considered by the Court.
3 Notwithstanding their age, the fact that they're so similar
4 makes them highly relevant in this case.

5 **THE COURT:** Okay. Do you want to respond on that?

6 **MR. SARDELLI:** Your Honor, that's actually going
7 against the wave of the current trend for being more reasonable
8 about sentencing, Your Honor.

9 I mean, he's clearly scored at a Criminal History
10 Category III. We don't contest that, Your Honor.

11 Obviously, we object to however you want to phrase it,
12 Your Honor, upward departure, variance, however you want to
13 phrase it to the next category up.

14 Again, this is because I think the Government wants to
15 keep trying to find ways to tack on more time because they're
16 not satisfied with the verdict of the jury, Your Honor.

17 So we don't object to the Criminal History
18 Category III, but we would object to any type of attempt to
19 move him up to a further category, Your Honor.

20 **THE COURT:** Okay. All right. Well, obviously, the
21 guidelines are just one factor, and I will give you rulings on
22 all of them.

23 But I'm also happy to go ahead and consider -- because
24 it is just one factor, regardless of what I find on the
25 guidelines -- what you all think is a reasonable sentence under

1 3553(a) and if there's any additional information you want me
2 to consider in that regard.

3 **MS. HOFFMAN:** Thank you, Your Honor.

4 So the Government does believe that a sentence of 240
5 months, or 20 years, is sufficient but not greater than
6 necessary to comply with the purposes of sentencing set out in
7 18 United States Code, 3553.

8 This is an extremely serious offense. It doesn't get
9 much more serious than this.

10 And Your Honor is, by this time, very familiar with
11 the facts of this case. Your Honor sat through six weeks of
12 trial in which the Government presented evidence proving up --
13 proving that this gang, Murdaland Mafia Piru, was responsible
14 for at least five murders, six nonfatal shootings, multiple
15 additional conspiracies to commit murder, assaults,
16 robberies -- a couple of robberies, anyways -- and at least six
17 years of high-volume, street-level drug trafficking in heroin
18 and crack cocaine, among other drugs.

19 Through these activities, MMP devastated neighborhoods
20 in Northwest Baltimore. They left grieving families and
21 wounded victims in their wake. They intimidated witnesses and
22 they profited from the scourge of addiction.

23 The defendant personally ran MMP's second-busiest drug
24 shop, the drug shop at Liberty Heights and Gwynn Oak. He
25 supervised at least seven other members of MMP. He distributed

1 large volumes of crack cocaine over a period of many years.

2 And he embraced Murdaland Mafia Piru's fundamental
3 goals: Using violence to eliminate or intimidate would-be
4 rivals and witnesses and allowing its members to monopolize the
5 drug market in their territories and turn a substantial profit.

6 Not only was the defendant personally involved in
7 violence, but he knew that others in the gang were committing
8 murders and witness retaliation and continued to support them
9 and work in tandem with them to further the gang's interests.

10 And I wanted to come back to the attempted murder of
11 Samartine Hill, which was in October of 2012. And the Court
12 heard extensive testimony and evidence about this attempted
13 murder at trial. In fact, the person who committed that
14 attempted murder testified about it at trial.

15 This is highly significant. The high-definition
16 surveillance camera footage shows the defendant and Devon Dent,
17 also known as Tech, arriving at the nightclub shortly before
18 the attempted murder was committed, with the shooter,
19 William Banks, and also with the gang's leader, Dante Bailey,
20 as well as other members of MMP.

21 So this is -- and, again, I wish I could get the
22 actual video to play, but these are screenshots that came in at
23 trial.

24 This is the defendant here (indicating). He's walking
25 behind Devon Dent here (indicating).

1 And then just behind them -- again, here's Devon Dent
2 (indicating), the defendant (indicating). Behind them,
3 William Banks, the shooter (indicating); Dante Bailey, the
4 leader of the gang (indicating).

5 And then, behind them, Dontray Johnson in the red
6 shirt here (indicating). And Dontray Johnson's shirt actually
7 says on it "mob squad," which is a reference to
8 Murdaland Mafia Piru.

9 So they all show up at the club together. They all
10 wait in line together. And while they're standing there, the
11 video shows William Banks. He leaves the scene briefly to get
12 a gun, he comes back, and he fires multiple rounds with a
13 .45 caliber firearm into Samartine Hill because he's rumored to
14 be a snitch and Dante Bailey has ordered it.

15 And then they all go out afterwards to a different
16 club, is what William Banks testified to at trial.

17 Now, of course, just the simple fact that the
18 defendant is standing there at the time this happens doesn't,
19 by itself, mean that he knew it was going to happen.

20 But, in connection with the other evidence that was
21 presented at trial -- specifically the excerpts from
22 Dante Bailey's semi-autobiographical screenplay, we think that
23 that other evidence indicates that the defendant did know that
24 it was going to happen, that he knew this attempted murder was
25 going to happen.

1 And specifically this is an exhibit that came in at
2 trial in which the defendant, Dante Bailey, talks about -- he
3 talks about the Mirage nightclub. Nooks gets hit.
4 Samartine Hill's street alias was Snook, which I think was
5 changed slightly here to say Nooks. The attempted murder, of
6 course, happened at the Mirage nightclub.

7 And then there's the scene at the Mirage where Nooks
8 is standing in line and Gutta and his entourage walk through 20
9 deep, which is exactly what we saw on the video, and then Gutta
10 says and, "The shit gonna be live. Take some pictures for
11 Instagram." He calls Spittle and asks where he is. That's
12 corroborative of William Banks' testimony that it was Spittle
13 who put up the money for the hit.

14 And then Dirt is here saying, "Let's shut this bitch
15 down. I'm trying to make it look like 4th of July here."

16 And we think this indicates -- this is Gutta retelling
17 the story. Of course, it's a screenplay, so not everything in
18 it is literally true.

19 But given how much it matches up with the specific
20 details that we see in the surveillance footage and the
21 testimony of William Banks at trial, we think it indicates that
22 the defendant knew that this attempted murder was going to
23 happen.

24 But even if the Court doesn't find by a preponderance
25 of the evidence that the defendant knew that attempted murder

1 was going to happen, it still shows that he -- at least after
2 that point, he certainly had to be aware that members of the
3 gang were using murder and witness retaliation in furtherance
4 of the gang.

5 And he didn't withdraw from the gang. There's no
6 evidence of that.

7 In fact, to the contrary, we see the very next year,
8 in 2013, he is featured in this Murdaland Mafia rap video in
9 which he's making gang signs with the gang's leaders, talking
10 about the gang, and two of them flash actual firearms.

11 The witness testimony indicates he, of course,
12 continues to run that drug shop. He continues to deal large
13 volumes of crack cocaine and supply other members of the gang.
14 And all the while knowing that this is what the gang does, that
15 murder, shootings, witness retaliation, witness tampering,
16 that's what the gang does. And so we think that's very
17 significant.

18 There was other evidence that we've highlighted in our
19 sentencing memo that the defendant was, at the very least,
20 aware that other members of the gang were committing murder and
21 witness retaliation.

22 There is the phone call that -- or I guess it's a
23 recorded jail visit that Dontray Johnson makes to Dante Bailey
24 right after he's killed Nutty B in which Dante Bailey says --
25 he tells Dontray Johnson -- he basically approves the murder

1 and then tells Dontray Johnson to reach out to Randy, who we
2 think is the defendant, and he says, "We're raising the fourth
3 generation." Basically saying we're raising the fourth
4 generation of Murdaland Mafia Piru members.

5 There are a number of jail calls that came in at trial
6 in which the defendant is not actually a participant, but other
7 members of the gang are talking about him and they're referring
8 to him as somebody who supplies money to members of the gang
9 when they're incarcerated.

10 And there's also quite a bit of evidence that he's a
11 savvy criminal. He knows how to avoid detection by
12 law enforcement. And one of the ways in which he does that is
13 by staying off the phone.

14 So we saw a number of jail calls in which other
15 members of the gang talk about how the defendant switches his
16 phones up and doesn't give his number out to many people, as a
17 way to avoid detection by law enforcement.

18 So although the defendant wasn't front and center in
19 wire calls and jail calls, which is something that I think the
20 defense seized on at trial, he was still extremely influential.

21 When Dante Bailey wanted to raise that fourth
22 generation of MMP members, he looks to the defendant.

23 Then Dontray Johnson, when he wanted money after he
24 was incarcerated for killing Brian Johnson, Nutty B, he sought
25 help from the defendant. He reaches out to a female on the

1 streets and asks her to collect money from Dirt on Gwynn Oak.

2 When Dominick Wedlock wanted a place to come home on
3 pretrial release after he got locked up with guns and drugs, he
4 looks to the defendant. He wants to know if he can come and
5 stay in one of Dirt's houses.

6 And then when Eastside is murdered in the summer of
7 2016, the evidence that came in at trial, and this additional
8 jail call which we've highlighted for the Court at sentencing,
9 indicates that those with knowledge of the gang knew that the
10 defendant was behind it, that he was pulling the strings.

11 Turning to the history and characteristics of the
12 defendant, we think the defendant's criminal record shows a
13 virtually uninterrupted pattern of criminal activity since he
14 was 20 years old.

15 So this isn't just a case of a single indiscretion or
16 a handful of misguided decisions by an irresponsible young man.
17 It's a lifetime of criminality by a longstanding member of one
18 of the city's most violent gangs.

19 Turning to deterrence, we think obviously there's a
20 very compelling need for deterrence in this case. Baltimore is
21 overwhelmed by violent gangs like MMP that kill people and
22 churn out deadly drugs.

23 And the defendant's criminal history is that of an
24 influential recidivist gang member, so there's an urgent need
25 to protect the public from future crimes by him.

1 And then, finally, another point that we touched on in
2 our sentencing memo that I think is very important is the need
3 to avoid unwanted sentencing disparities.

4 As Your Honor knows, there were roughly 20 other
5 members and associates of the gang who pleaded guilty prior to
6 trial and admitted to their involvement in this conspiracy and
7 their wrongdoing in this case, and many of them received very
8 lengthy prison sentences.

9 And we think that the defendant, although the jury did
10 not unanimously agree beyond a reasonable doubt that he was a
11 leader of this gang, we think the evidence, by a clear
12 preponderance of the evidence, shows that he was. He was a
13 leader of this gang. And he was more culpable than these other
14 members of the gang who pleaded guilty and received 14, 15, and
15 in one case 20 years, pleading guilty prior to trial.

16 So we've pointed to William Jones, who was -- the
17 evidence indicates he was a low-ranking mobster. He had no
18 rank in the gang. He had no history of firearms possession or
19 violence. His involvement was really limited to drug
20 trafficking. He was sentenced to 14 years.

21 Devon Dent and Ayinde Deleon were sentenced to 14 and
22 15 years, despite no finding that they engaged in violence as
23 part of the racketeering conspiracy.

24 And then Delante Lee is a little different because he
25 did admit to shooting a rival in the arm in furtherance of the

1 gang, but he was, nonetheless, a low-ranking mobster who worked
2 under the defendant. And there was testimony by Devin Ferguson
3 at trial about Delante Lee and the fact that he was required to
4 pay a 10 percent tax to the defendant as part of working under
5 him in this drug operation. And Delante Lee was sentenced to
6 20 years.

7 And these defendants accepted responsibility for their
8 crimes.

9 And we think that another important reason why 20
10 years is an appropriate sentence in this case is to avoid
11 unwarranted disparities.

12 And I think, unless the Court has further questions,
13 that's it.

14 **THE COURT:** All right. I forget, is there any issue
15 of forfeiture?

16 **MS. HOFFMAN:** No, no issue with forfeiture.

17 **THE COURT:** Okay. Thank you.

18 Yes, Mr. Sardelli.

19 **MR. SARDELLI:** Thank you, Your Honor.

20 And I think the Court already knows this, Your Honor.
21 But at the end of this, I would like the opportunity for the
22 sister and the daughter to speak to the Court once I'm done,
23 please.

24 **THE COURT:** Either once you're done or now, whichever
25 you would prefer.

1 **MR. SARDELLI:** I would prefer after, Your Honor, if
2 that would be okay.

3 **THE COURT:** Sure.

4 **MR. SARDELLI:** Thank you.

5 So what the Government wants the Court to do is
6 actually to create a sentencing disparity. All the cases
7 they've been talking about were people who pled guilty or were
8 found guilty of both RICO and a drug conspiracy for amounts far
9 above what the jury found the defendant guilty for.

10 The reason why we're asking for time served, whether
11 or not the Court gives us a minor role adjustment or not, he's
12 already served about 27 months already, Your Honor.

13 So under our scoring of this, he already is below
14 that, whether or not you give him a role adjustment downwards
15 or not.

16 **THE COURT:** I'm sorry, you may have mentioned that in
17 your sentencing memo.

18 **MR. SARDELLI:** Sure.

19 **THE COURT:** I didn't hear you argue that. You think
20 he's entitled to a minor role adjustment?

21 **MR. SARDELLI:** We do, Your Honor. That's based on
22 Officer DiPaola, Your Honor, and his testimony. 'Cause at the
23 heart of our argument is the evidence that's credible, whether
24 it's beyond a reasonable doubt or a preponderance of the
25 evidence, is the DiPaola incident from May of 2016, Your Honor.

1 In that incident, there was a seizure of three baggies
2 of crack that totaled .77 grams of crack cocaine, less than a
3 gram.

4 The evidence, even if you believe that evidence, is
5 that the defendant was a lookout, point people in the direction
6 or whatever. He didn't touch the drugs. He didn't handle the
7 drugs, Your Honor.

8 And if that's the evidence the Court's going on, that
9 would, to the defense, support a minor role adjustment.

10 The reason why I didn't spend a lot of time on that,
11 whether or not he gets one or not, if he's held responsible for
12 the .77 grams, that already is less than the time served or 27
13 months that he's already served, Your Honor.

14 Your Honor, again, the idea of 20 years -- actually,
15 they would ask for 27 to 33 years but for the statutory cap of
16 20.

17 The reason why we want time served in this case,
18 Your Honor, 27 months, is not to create a sentencing disparity,
19 but to eliminate one, Your Honor.

20 Unless I've missed something, Your Honor, he's the
21 only defendant in this case that was found guilty of what he
22 was found guilty of, less than 280 grams, Your Honor.

23 Everyone else either pled to or were found guilty of
24 both RICO and drug trafficking far in excess of the less than
25 280 grams, Your Honor.

1 Again, I heard a lot of "we think," Your Honor, when
2 the Government was talking about the evidence in this case.

3 I saw no evidence linking the defendant to a murder.
4 I didn't, Your Honor.

5 I think that one of the reasons why the Government is
6 where they are today is that they've consistently overreached
7 and overstretched in this case, Your Honor.

8 Even the one incident with Mookie at the memorial is
9 about a gun and threats. It's not about murder, Your Honor.
10 And they continue to allege or to basically say that somehow he
11 was involved in a murder.

12 I saw no concrete evidence, whether it's preponderance
13 of the evidence or beyond a reasonable doubt, linking him to
14 any murders.

15 He was present at the shooting at the Mirage club.
16 But being present during the shooting is not the same as being
17 involved in it.

18 They're relying, again, on Dante Bailey's screenplay.
19 And no offense against Dante Bailey, that is a highly
20 unreliable source, whether or not you're talking about beyond a
21 reasonable doubt or some lower standards, Your Honor.

22 Your Honor, what this case is really about is respect
23 for the work the jury did in this case, Your Honor.

24 And you can see a lot of members of his family and
25 friends are here, Your Honor (indicating). And they're

1 watching, Your Honor. And I think it's just as important for
2 them to feel that this defendant and their community gets a
3 fair shot, Your Honor.

4 The Government wants you basically to ignore the
5 jury's finding in this case, Your Honor.

6 27 to 33 years is something he should have gotten if
7 he was convicted on RICO, on the higher amount of drugs, and
8 all the other things, Your Honor.

9 They're asking you to go well above what the facts and
10 the evidence actually support in this case, Your Honor.

11 I think it's important that the Court treat the
12 defendant fairly in this case, and I'm confident the Court's
13 going to do that, Your Honor.

14 Specifically, we wish -- I think when the jury notes
15 and the verdict form and other issues came up, Your Honor, we
16 were hopeful that perhaps there would be an acquittal in this
17 case.

18 But we have to acknowledge that there wasn't,
19 Your Honor. He was found guilty, and he's going to be
20 sentenced, Your Honor. We don't dispute that, Your Honor.

21 But the idea of hammering him with 20 years -- or, if
22 it wasn't for the statutory maximum, 27 to 33 years --
23 continues a pattern of excessive stretching the facts beyond
24 the breaking point, Your Honor.

25 We believe that a sentence of time served in this case

1 would be reasonable, Your Honor.

2 And even if we disagree with Probation, Your Honor, we
3 respectfully disagree, but we understand that's within the
4 realm of reason, the 41 to 51 months, Your Honor. We disagree
5 with that, but we understand where Probation is coming from.

6 The idea of 20 years or 27 to 33 years is just --
7 Your Honor, again, it has to do with the Government being angry
8 or disagreeing with the verdict of the jury, Your Honor.

9 I think it's important to show the community in this
10 case that Randy Banks will be punished. He deserves to be
11 punished for what he was found guilty of, Your Honor. We
12 believe that's based on what Officer DiPaola testified about on
13 May 27th, 2016, Your Honor. However, that incident is less
14 than 1 gram of crack cocaine.

15 And the idea of sentencing someone to 20 years for
16 that rather than 27 months or 41 to 51 months, Your Honor, is
17 excessive in the extreme, Your Honor.

18 We ask that the Court be reasonable in this case,
19 provide a just sentence.

20 And that's all I have at this point, Your Honor.

21 I would ask for the opportunity for the sister and the
22 daughter to speak to the Court, Your Honor.

23 **THE COURT:** Sure. That would be fine.

24 **MR. SARDELLI:** Thank you.

25 I'll start with his sister, Your Honor, if that's

1 okay.

2 **THE COURT:** Certainly.

3 If you could give us your name and spell your name,
4 please.

5 **TANGIER FLOYD:** My name is Tangier Floyd. You want me
6 to spell it too?

7 **THE COURT:** Yes, please.

8 **TANGIER FLOYD:** Tango, Al -- I'm sorry, T-A-N-G-I-E-R;
9 Floyd, F-L-O-Y-D.

10 **THE COURT:** Thank you. Go ahead.

11 **TANGIER FLOYD:** I just want to say, I know -- I know
12 y'all had numerous -- numerous -- excuse me, Your Honor.

13 I know y'all had numerous conversations and jury and,
14 you know, witnesses against my brother as far as what he
15 supposed to have done out on the streets.

16 I just want to tell y'all what he have done for our
17 family.

18 For years, Your Honor, we -- we don't know -- we don't
19 always get the easy -- easier out. We don't.

20 But every last one of us have fought through some
21 trying times.

22 We lost our mother, grandmother, and aunt back to back
23 without time to grieve.

24 And we didn't have numerous houses growing up. This
25 was only one house that we lived in where we all -- half of us,

1 not family, lived in this one house, Your Honor.

2 My brother been -- he been my father since I can
3 remember.

4 My mom got sick when she was 26 years old, from her
5 boyfriend.

6 My brother stepped up and took and held me and my
7 sisters and my grandmother and my uncle and them down to the
8 point of beyond. All we know is each other, Your Honor.

9 There's times that he been gone -- and Mookie got
10 killed was probably the worst time of our lives.

11 And I need some help, Your Honor. Like, I'm trying
12 to -- I'm trying to hold this down the best way I can, but
13 Randy always done it. Randy was my go-to for understanding
14 anything. And I can't do it but so much 'cause, you know, when
15 he got to call home and I'm not around.

16 But if it weren't for him, I wouldn't be who I am
17 today, Your Honor. I promise you. I'm 38, maybe 37. But I
18 still want to, you know what I mean, dispute -- I own a whole
19 Comcast company, ma'am, a whole company that I've been doing so
20 with my partner and everybody else for years. I've been held
21 our family down without him for years.

22 When -- when we lost our mother and our grandmother
23 and our aunt back to back, the moment I got each news, I needed
24 him.

25 I understand what y'all heard about him. I can't

1 confirm nor deny none of that.

2 But I can say this about him: He's a smart man.
3 Might have made some bad decisions. I'm not -- but he's a
4 smart man.

5 Every chance I get, I just want to run to him and tell
6 him what's going on.

7 When Mookie died, I -- I thought it was over for me.
8 I didn't know if I was going to be able to go on.

9 I -- I went to my brother and I asked him what we was
10 supposed to do.

11 There's nobody else, Your Honor. I'm 38. And it's no
12 grandmother, there's no older people to run to and say "I need
13 help" or fix a Sunday meal. We are all we got.

14 My brother has 14, 9, 8, we don't really know the
15 definite count of his kids yet, but I been doing the best I can
16 to help the kids along while he's gone.

17 I mean, I just -- I just want you to just -- just
18 think about it, please, Your Honor.

19 Like, I -- I need him. I know we all need him, but
20 I -- I really need him now.

21 It's like, I truthfully don't know how much more I got
22 in me. And it's a fight every day.

23 I understand -- I know people -- I know everybody got
24 their stories. I know everybody got their ups and downs. I
25 do. I do. I know that, ma'am.

1 But we lived in 3404 Woodbine our whole life until we
2 all moved away. He -- he been that person for me since I can
3 remember, since I can remember.

4 I -- I don't even know what to tell you if they even
5 reach or if you even reach for such -- I mean, I just -- I -- I
6 need help, Your Honor. I need him. I promise you, I do.

7 I mean, and I will do everything in my power -- he --
8 he can't be a cable tech, though, ma'am. But I would do
9 everything in my power to make sure that he comes and do
10 something, whether he's sweeping up the sidewalk or cleaning
11 out vans for detailing or I don't know, walking the kids to
12 school or something, ma'am, I will figure out a way to make
13 sure that what society see of him, they going to see what I see
14 of him.

15 That's -- that's all. That's all.

16 **THE COURT:** Thank you. Thank you.

17 **MR. SARDELLI:** His daughter would like to speak.

18 **THE COURT:** Certainly.

19 And, again, if you could just please give us your name
20 and spell your name.

21 **NA'TASSIJA BANKS:** Yes. My name Na'Tassija Banks. My
22 first name is N-A, apostrophe, capital T, A-S-S-I-J-A; and my
23 last name, B-A-N-K-S.

24 **THE COURT:** Thank you.

25 **NA'TASSIJA BANKS:** Okay. All right, Your Honor. You

1 already know, this is my father. This is -- you get born to
2 two parents. I was blessed with only just one for the past two
3 years.

4 I walked across that stage, I graduated from college
5 in May, my father was not there.

6 I'm the first girl graduated from college. He has
7 another son who graduated from college. We both graduated from
8 college because -- because of this man (indicating).

9 Sometimes I get a little weak, but just talking to my
10 father, it -- it puts me through. That's the only man I know.
11 They say your father is your first love. It's the only father
12 I got.

13 My father has 11 kids. It's eight of us here today.
14 If you can't tell, we all look alike.

15 If my father go, I don't know what I'm supposed to do.
16 It's -- it's a lot of us. I'm only 21 years old. That's a big
17 responsibility to carry, and I will have to do it. They're my
18 siblings. We're family. We tight-knit. That's all I got.

19 So if I just ask, could you please -- I don't know
20 about nobody else. I need my father. I can't do nothin' else
21 without him. I'm 21 years old. That's all I know.

22 I know, you know, this was a big case and a lot of
23 stuff, but at the end of the day, he's a father. He's been a
24 brother. He's been a father to his sisters. He's been an
25 uncle, a big cousin. He's a man. He's a family man. That's

1 all we got.

2 We already lost one. We already lost Mookie. I can't
3 go through that again, losing another person. Because despite
4 everything, I believe that my father is a good man. If it
5 wasn't for him, I wouldn't have made it as far as I've made it
6 at 21 years old.

7 People don't go straight to college after high school
8 and make it out, you know, to see a better life.

9 But if it wasn't for that man right there, I couldn't
10 have done it.

11 Thank you.

12 **THE COURT:** Thank you. Appreciate it.

13 **MR. SARDELLI:** Your Honor, I just wanted to confirm
14 that you did receive the three letters.

15 **THE COURT:** Yes. Thank you.

16 **MR. SARDELLI:** We also want you to consider that as
17 well, Your Honor.

18 And then when you get a chance, Your Honor, Mr. Banks
19 would like to make a short statement.

20 **THE COURT:** Certainly.

21 Ms. Hoffman.

22 **MS. HOFFMAN:** I did just have one thing to add, and I
23 don't know if I should do it now or after Mr. Banks speaks.

24 **THE COURT:** Go ahead.

25 **MS. HOFFMAN:** I just want to push back really strongly

1 on the notion that the Government is seeking a 20-year sentence
2 because of anger about the jury's verdict.

3 The Government is seeking a sentence of 20 years of
4 imprisonment to reflect the extremely serious nature of this
5 offense.

6 The defendant held a leadership role in a
7 drug-trafficking conspiracy and a racketeering conspiracy that
8 involved numerous murders and the distribution of deadly drugs.

9 We're seeking a 20-year sentence because we think that
10 that is necessary to afford adequate deterrence for criminal
11 activity that has a really, really devastating impact on the
12 community.

13 We're seeking a 20-year sentence because we think that
14 the community needs to be protected from the defendant, who has
15 a very significant criminal history and a high likelihood of
16 re-offending.

17 And we're seeking a 20-year sentence to avoid
18 unwarranted sentencing disparities between the defendant and
19 his co-defendants in the same case.

20 So I just wanted to respond to that and explain why we
21 are seeking a 20-year sentence here.

22 **THE COURT:** Okay. All right. Thank you.

23 Mr. Banks, if there's anything you'd like to say
24 before I make a final decision, you have the right to do that.
25 You don't have to. I won't hold it against you if you don't,

1 but --

2 **MR. SARDELLI:** Do you want him to stand, Your Honor,
3 or do you want him to --

4 **THE COURT:** If you'd like to speak, yes, if he could
5 stand and just be near the mic. He doesn't have to lean -- I
6 think if he keeps his voice up, that will be good enough.

7 **THE DEFENDANT:** I just -- I just want to . . .
8 I just want to tell my family I love 'em and thank you
9 for coming.

10 You know, we all support each other.

11 And I'm always going to be there for y'all,
12 regardless.

13 That's all I have to say.

14 **THE COURT:** All right. Thank you, sir.

15 Anything else anybody needs to say?

16 (No response.)

17 **THE COURT:** All right. I'm going to take about a
18 20-minute recess and then I'll give you my rulings.

19 (3:21 p.m.)

20 (Recess taken.)

21 (3:51 p.m.)

22 **THE COURT:** All right. You can be seated, please.

23 Conference at the bench.

24 (It is the policy of this court that every guilty plea and
25 sentencing proceeding include a bench conference concerning

1 whether the defendant is or is not cooperating.)

2 **THE COURT:** Well, first, let me start by thanking
3 counsel on both sides, as well as the probation officer, for
4 all the information and advocacy that you have provided.
5 Sentencings, obviously, are difficult, and obviously difficult,
6 as we saw for Mr. Banks' family.

7 And I see folks coming in.

8 (Pause.)

9 **THE COURT:** So I'm saying that obviously sentencings
10 are very difficult for all people involved, including
11 particularly -- present in the courtroom, of course, would be
12 Mr. Banks' family.

13 And I want to be clear, human beings are complicated,
14 and nobody is all bad and nobody is all good. I'm quite sure
15 that Mr. Banks has done good things for his family. That's
16 obvious. And I'm sure he appreciates the support of all the
17 family.

18 There are, of course, a lot of other issues that I
19 have to consider in deciding on a reasonable sentence in this
20 case.

21 I'm going to start by going through the guidelines
22 issues.

23 And, of course, I'm aware that the standard for me to
24 make findings that can affect the guidelines -- so long as it
25 doesn't increase the statutory maximum -- is a preponderance of

1 the evidence and that I'm permitted to consider acquitted
2 conduct under appropriate circumstances. I'm aware of all
3 that.

4 In this case the jury found that Mr. Banks was
5 responsible for less than 280 grams of crack cocaine.

6 I'd note that they found that unanimously beyond a
7 reasonable doubt, so I think it's a little bit different than
8 the circumstance of considering acquitted conduct.

9 But, in any event, I don't think that's a necessary
10 issue to create because there is certainly no doubt, by more
11 than a preponderance of the evidence, that Mr. Banks is
12 responsible for at least 196 grams of crack cocaine, which is
13 an offense level of 28.

14 And to make that finding, I'm relying on, of course,
15 all the evidence that was introduced at trial and cited by the
16 Government in its memorandum.

17 It certainly includes the three specific instances,
18 the observations of Officer DiPaola in May of 2012, which
19 showed Mr. Banks I would say not necessarily as a lookout, but
20 directing customers where to get crack cocaine. Of course,
21 that was a very small amount, but that is a single day's
22 observation, which corroborates a course of conduct over a lot
23 of years.

24 We have Mr. Lashley's purchase of 7 grams of
25 crack cocaine in 2010 or 2011.

1 And we have the evidence of the cooperator from the
2 summer of 2015 taking Mr. Banks and Mr. Bailey to what's called
3 a trap house where powder is cooked into crack cocaine. And
4 the quantity there was approximately 500 grams.

5 And even allowing for some error or that being an
6 estimate, you'd think we've reached the 196 grams just on those
7 three instances. That's corroborated not only specifically by
8 the picture of Mr. Banks with Mr. Bailey in the trap house that
9 was recovered from another person's cell phone, but it's not
10 realistic to consider those three instances in isolation and
11 imagine that over the course of the 2010- to 2015-or-so time
12 period that those were isolated instances.

13 Rather, they corroborate the testimony of at least
14 five witnesses, William Banks and others, that Mr. Randy Banks,
15 the defendant, was overseeing a drug shop for a number of years
16 at the Liberty Heights and Gwynn Oak area with at least seven
17 people, as identified by the Government's evidence, under his
18 supervision.

19 So what this shows us is a consistent pattern of
20 specific sales of crack cocaine. And the instances that were
21 specifically testified to just corroborate the overall
22 testimony.

23 So I'm going to find that there was at least 196 grams
24 of crack cocaine for which Mr. Banks is responsible in the
25 course of this conspiracy. So I think we start at an offense

1 level of 28.

2 In terms of the role adjustment, I believe the
3 evidence there certainly supports, by at least a preponderance
4 of the evidence, at least a three-level upward adjustment,
5 which is what I am going to do for being a manager and
6 supervisor of an organization with at least five participants,
7 and I've referred to the seven that he was directly
8 supervising, or is otherwise extensive. This certainly both
9 involved more than five participants and was otherwise
10 extensive.

11 I think his role, again, based on the specific
12 testimony of the directing customers and supplying drugs and
13 collecting money and generally telling people what to do in the
14 Liberty Heights and Gwynn Oak area certainly at least rises to
15 a manager/supervisor role, even if he was not at the level of
16 some people that I would categorize more as the leader of the
17 entire organization.

18 So I think a three-level upward adjustment for role is
19 warranted.

20 I certainly do not think there is any minor role
21 adjustment that would be warranted in this case.

22 Regarding the firearms, there are two separate upward
23 adjustments that have been requested.

24 The first one, under 2D1.1(b)(1), is for possession of
25 a firearm in connection with the drug-trafficking offense; and

1 on this one I agree with the Government. It's certainly
2 reasonably foreseeable to Mr. Banks that weapons would be used
3 in furtherance of this drug organization's activity and
4 possessed in connection with that.

5 And I think the Government's point there is that at
6 least from his being present and aware of the attempt to kill
7 Samartine Hill at the club Mirage, if nothing else, that made
8 it foreseeable to him, and it's certainly corroborated by
9 testimony and pictures, but that incident alone would make it
10 foreseeable that at least other members of the conspiracy are
11 possessing and using guns in furtherance of the conspiracy.
12 And I'm speaking of the drug conspiracy of which he was
13 convicted.

14 On the other hand, the two-level upward adjustment for
15 credible threat of violence I believe requires something more
16 specific in terms of a guideline adjustment as to Mr. Banks.

17 What is particularly attributed to Mr. Banks is the
18 threat relating to the death of his cousin, Mookie. And I
19 believe that the threat happened.

20 I'm not clear from the evidence that it is in
21 connection with the drug offense or part of the drug offense in
22 the same way as the general possession of firearms and other
23 threats of violence were.

24 I think, frankly, it's something that can be
25 considered under 3553(a), but I'm not going to impose an

1 additional two-level upward adjustment under the guidelines.

2 And I'm not considering the later jail call. I don't
3 think there's sufficient evidence to find Mr. Banks personally
4 responsible for the murder of Dante Harris.

5 I'm not considering the gang paperwork as evidence of
6 that.

7 On the other hand, I'm also not considering the jury
8 notes. I think it would be entirely speculative as to what was
9 going on with the jury when they asked the questions that they
10 did.

11 So those are things that I am not considering in this
12 regard.

13 So that, I believe -- counsel will correct me if my
14 math is wrong -- but I believe we are at an offense level of
15 33.

16 I will grant a one-level upward adjustment under 4A1
17 for the criminal history.

18 I do agree with the Government that in looking at
19 Mr. Banks' criminal record, which starts back in 1998, when he
20 was aged 20, that it is -- first of all, that does have two
21 prior separate convictions that don't count, weren't scored.

22 The ones that are within the more recent time period
23 involve both a firearm and distribution of cocaine, so it's
24 quite serious.

25 And it is all consistent with the activity that the

1 evidence shows he was involved in in connection with this
2 particular prosecution.

3 So I agree that an Offense Level 3 doesn't adequately
4 address the risk of recidivism with the seriousness of the past
5 criminal conduct, and we should be at an offense level of 4,
6 which, I believe, means we are at a guideline range of 188 to
7 235 months.

8 I'm not asking for agreement on the substance of that,
9 but do counsel agree with my math?

10 **MS. HOFFMAN:** Yes.

11 **MR. SARDELLI:** Yes, Your Honor.

12 **THE COURT:** Okay. So the guideline range is, of
13 course, one thing I have to consider. There are a lot of other
14 factors.

15 This is a very serious offense. Even at the level of
16 drugs that were found by the jury and which I have found here,
17 it's a very significant amount of drugs, and it was distributed
18 over a lengthy period of time. And it devastates people's
19 families.

20 I certainly believe and accept and appreciate that
21 Mr. Banks has been concerned for his family and done good
22 things for his family.

23 It ought to be clear that you cannot support your own
24 family by selling poison to other people's families or by
25 threatening other people's families with this kind of drug and

1 gun behavior and conduct that Mr. Banks, unfortunately, has
2 been involved with for a long time.

3 I do have to consider relative culpability as well,
4 based on what the evidence has proved, not on any question of a
5 jury verdict.

6 I've gone through what I think the evidence shows, and
7 it is supported. And the sentence for Mr. Banks needs to be
8 comparable to other people that are at or below his level of
9 involvement, particularly considering a lot of other people did
10 accept responsibility.

11 And, as I say, I don't set aside his personal
12 characteristics and his willingness to help his family, and
13 that is all important as well.

14 Where I come out with that at the guideline level,
15 considering that, considering all the other factors that I have
16 just addressed, and considering comparable sentences for other
17 co-defendants who have already been sentenced, I am going to
18 impose a sentence, and this is on Count 2, of 18 years in the
19 custody of the Bureau of Prisons. That is 216 months. It is
20 within what I believe is the correct advisory guideline range.
21 And that is on Count 2.

22 The sentence of incarceration is going to be followed
23 by a period of three years of supervised release, which is also
24 going to be very important.

25 Special conditions of supervised release are any

1 substance abuse testing or treatment that the probation officer
2 recommends, any vocational or educational programs the
3 probation officer recommends so that when Mr. Banks is
4 released, he'll be able to support his family in a law-abiding
5 way. We can all hope for that.

6 There's not going to be any fine. His financial
7 circumstances don't permit a fine.

8 There is a required \$100 special assessment on Count 2
9 that I am imposing.

10 Have I left anything out? Anything I have not
11 addressed in that sentence?

12 **MS. HOFFMAN:** No. Thank you.

13 **MR. SARDELLI:** Your Honor, he would recommend the BOP
14 facility at Petersburg, Virginia.

15 If that's not available, as close to the Baltimore
16 area as possible to facilitate family visits.

17 **THE COURT:** Any other recommendation?

18 **MR. SARDELLI:** No, Your Honor.

19 **THE COURT:** Okay.

20 **MS. HOFFMAN:** No.

21 **THE COURT:** All right. Let me also be clear. I did
22 calculate the guidelines. That's only one factor.

23 The sentence that I have announced is the sentence
24 that I believe is reasonable, regardless of any error that I
25 may have made in calculating the guidelines.

1 Mr. Banks, you obviously have the right to appeal,
2 both from this sentence and from the judgment of conviction.
3 Your appeal needs to be noted within 14 days.

4 Mr. Sardelli, I assume you'll be assisting him with
5 that?

6 **MR. SARDELLI:** Yes, Your Honor, I will be filing a
7 Notice of Appeal, Your Honor.

8 **THE COURT:** Okay. Thank you, all.

9 (Court adjourned at 4:06 p.m.)

10 I, Douglas J. Zweizig, RDR, CRR, FCRR, do hereby certify
11 that the foregoing is a correct transcript from the
12 stenographic record of proceedings in the above-entitled
13 matter.

14 _____
15 /s/

16 Douglas J. Zweizig, RDR, CRR, FCRR
17 Registered Diplomat Reporter
18 Certified Realtime Reporter
19 Federal Official Court Reporter
20 DATE: December 16, 2019
21
22
23
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